



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 5, 1997

Mr. David Méndez
Bickerstaff, Heath, Smiley, Pollan,
Kever & McDaniel, L.L.P.
816 Congress Avenue, Suite 1700
Austin, Texas 78701-2443

OR97-2663

Dear Mr. Méndez:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 111146.

The Austin Independent School District (the "district"), which you represent, received a request for thirteen categories of documents relating to the Russian Program at Bowie High School. You claim that the responsive documents for categories 2, 6, 10, and 11 are excepted from required public disclosure by section 552.101 of the Government Code in conjunction with Education Code section 21.355.¹ We have considered your arguments and have reviewed the documents you have provided to this office.

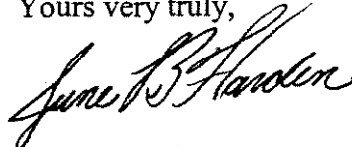
Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 21.355 of the Education Code provides, "Any document evaluating the performance of a teacher or administrator is confidential." This office has interpreted this section to apply to any document that evaluates, as that term is commonly understood, the performance of a teacher or administrator. Open Records Decision No. 643 (1996). In that opinion, this office also concluded that a teacher is someone who is required to hold and does hold a certificate or permit required under chapter 21 of the Education Code and is teaching at the time of his or her evaluation. *Id.* We also concluded that an administrator is someone who is required to hold and does hold a certificate required under chapter 21 of the Education Code and is administering at the time

¹You have not asked this office to rule on the remaining categories of documents. Therefore, we presume that the district has released these records to the requestor.

of his or her evaluation. *Id.* Based on the reasoning set out in Open Records Decision No. 643 (1996), we conclude that the submitted evaluations are confidential under section 21.355 of the Education Code. Therefore, pursuant to section 552.101 of the Government Code, the district must withhold the requested documents from public disclosure.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "June B. Harden". The signature is fluid and cursive, with the first name "June" being more prominent.

June B. Harden
Assistant Attorney General
Open Records Division

JBH/glg

Ref.: ID# 111146

Enclosures: Submitted documents

cc: Ms. Peggy Lester
3201 Twilight Trail
Austin, Texas 78748
(w/o enclosures)